ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Streamlining the International Section 214 Authorization Process and Tariff Requirements	)	IB 95-118
	)	

REPLY COMMENTS

MCI Telecommunications Corporation (MCI), hereby replies to comments filed on August 23, 1995 in response to the above-captioned *Notice of Proposed Rulemaking* (NPRM).[1] In its NPRM the Commission specifically sought comments on its proposals to "streamline" the international licensing and tariffing requirements imposed on international nondominant carriers. Its objective was to provide a regulatory environment that would "enable international carriers to respond to the demands of the market with a minimum of regulatory interference."[2]

MCI lands this goal and reiterates its strong support of the Commission's proposals.[3] Streamlined procedural requirements that eliminate burdensome regulation, while, at the same time, "apply dominant carrier and other safeguards where circumstances warrant,"[4] are clearly needed and warranted.

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1 FCC 95-286, released July 17, 1995.

2 NPRM at ¶ 1.

3 MCI's failure to address positions taken should not be viewed as either an endorsement or criticism of those positions.

4 NPRM at ¶ 5.

I. THE COMMISSION'S PROPOSED AMENDMENTS TO SECTION 214 SERVE THE PUBLIC INTEREST

In the NPRM the Commission states that its primary goal is "to eliminate unnecessary and burdensome regulations imposed on the public" in order to "make U.S. industry more competitive."[5] At the same time, the Commission seeks to prevent anticompetitive conduct in the provision of international telecommunications services or facilities by maintaining certain safeguards where effective competition does not yet exist in the marketplace.

The large majority of commentors agrees that the Commission's proposals to streamline the Section 214 application process for international common carriers serve the public interest. Not surprisingly, however, AT&T argues that the Commission should only consider adopting the proposed streamlined Section 214 process "if it applies to all non-affiliated U.S. carriers,"[6] not only those classified as non-dominant. As discussed in greater detail below, MCI believes that the Commission should adhere to its proposal to apply streamlining only to nondominant U.S. carriers lacking foreign affiliations.

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[5] NPRM at ¶ 4.

[6] AT&T Comments at 2. AT&T supports the Commission's proposals only to the extent that they would relieve both dominant and nondominant carriers of procedural requirements, i.e., that they would (i) eliminate Section 214 applications for service to be provided on an indirect transit basis, or (ii) automatically grant authority for all previously authorized private line resale carriers on routes previously deemed "equivalent." (See In the Matter of the Regulation of International Accounting Rates Proceeding, Phased II, First Report and Order. 7 FCC Rcd 559 (1992)); and (iii) reduce information for cable landing license applications.

Otherwise, the Commission's stated goals in this proceeding will be impaired.[7]

A. Maintaining Certain Safeguards for Dominant Carriers is an Appropriate Means of Guarding Against Potential Abuses of Market Power

The Commission expressly recognizes its statutory obligation to "guard against abuses of monopoly power where effective competition does not yet exist,"[8] and it clearly evidences its duty to oversee the activities of the dominant carrier by: (i) excluding the dominant carrier from streamlined processing of "global" Section 214 applications; (ii) requiring the continued filing of individual Section 214 applications whenever capacity on a private cable system or satellite is requested; and (iii) limiting the one-day notice period for international tariff filings to non-dominant carriers.

Over the past decade, AT&T has been the recipient of

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[7] Several of the commentors have requested that the Commission expand the proposals contained in the NPRM to, for example, "require local exchange carriers to include a `fresh look-provision in all interstate/international access tariffs" See GST Pacwest Telecom Hawaii at 4); to declare growth-based accounting rate schemes discriminatory unless such rates "are made available simultaneously to all corresponding U.S. carriers based on the aggregate volume of U.S. traffic to a particular point" (See MFS International, Inc. at 9-12 and ACC Global at 8-9).

While it does not object, in principle, to Commission consideration of the above-mentioned proposals, MCI submits that it should not do so in this proceeding, as such matters clearly lie beyond the scope of the NPRM.

[8] NPRM ¶ 5.

substantial deregulation. Today, the only sources that remain subject to regulation -- under Price Caps as distinct from traditional rate-of-return standards -- are so called "Basket 1" services consisting of Long Distance Message Telecommunications Services. This deregulation has also resulted in a shortening of the notice periods associated with AT&T tariff filings. However, it is difficult to conclude that the factors which have led to the substantial deregulation of AT&T have applicability in the international marketplace. Although in recent years the Commission has undertaken important strides to expand opportunities for U.S. carriers to compete in the international telecommunications arena, effective competition still does not yet exist.

Faced with an array of economic and competitive advantages that are the product of its monopoly heritage, including longstanding relationships with foreign administrations, it is essential that the Commission continue to impose conditions on AT&T, as the dominant U.S. carrier, that are different from those imposed on non-dominant carriers in order to detect and prevent discriminatory and unlawful practices. MCI firmly believes that the Commission's Section 214 authorization process, which was designed, in part, to prevent dominant carriers from exercising their market power to the disadvantage of U.S. nondominant carriers must continue to be applied to AT&T until such time as

its international dominance is removed.[9]

For these reasons, the Commission should reject AT&T's proposal to have applied to it streamlined Section 214 application processes.

B. Co-Marketing and Joint Venture Arrangements Between Dominant U.S. Carriers and Dominant Foreign Carriers Should Not Be Eligible for the Commission's Proposed Streamlined Processing Requirements for Section 214 Applications

MCI strongly endorses the proposal made by Sprint Communications Company L.P. (Sprint) that "the triggering mechanism for [a non-dominant carrier's Section 214 application] needs to be expanded to include other types of business arrangements between U.S. and foreign carriers short of affiliation."[10] As previously demonstrated in MCI's Comments filed April 11, 1995 in *Market Entry and Regulation of Foreign-affiliated Entities*, IB Docket No. 95-22, pp. 20-21, co-marketing arrangements, particularly those involving alliances between dominant foreign carriers and the dominant U.S. carrier -- such as AT&T's WorldPartners, must be closely monitored by the Commission to ensure that they are not used as vehicles for

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[9] As noted in MCI's Comments, even if the Commission were to grant AT&T's pending petition to be declared non-dominant, such ruling should recognize AT&T's position in the international arena and, at least for the time being, the Commission's Section 214 processes should continue to apply to it.

[10] Sprint Comments, p.5.

discriminating against non-allied U.S. carriers.[11]

MCI therefore concurs wholeheartedly in Sprint's proposal to modify the proposed processing rules to require that the Commission issue a written authorization when a Section 214 application includes a request to provide services between the U.S. and foreign carriers participating in a co-marketing arrangement, or other significant business alliance. Because these kinds of arrangements clearly raise a potential for anticompetitive conduct, the Commission should continue to require separate Section 214 authority, which would be granted by written order.

C. Cable Capacity Conveyances by Dominant U.S. Carriers to Other U.S. Carriers Should be Subject to the Section 214 Authorization Process

In the NPRM the Commission asks whether "dominant carriers should be permitted to convey transmission capacity in submarine cables to other carriers without prior Section 214 authority (footnote omitted)".[12] MCI opposes this proposal and showed that the existing Section 214 application process is needed in order to provide public notice and comment in response to proposed transactions that directly affect the availability of market

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[11] The Commission imposed certain reporting requirements on MCI regarding its relationship with British Telecommunications plc because of concerns in this area. MCI submits that such concerns warrant the Commission's imposing essentially the same requirements on co-marketing arrangements between other U.S. and foreign carriers.

[12] NPRM at ¶30.

place offerings to consumers.[13] As MCI explained, certain information[14] must be available on the public record in connection with conveyances of transmission capacity between the dominant and other U.S. carriers.

And, although MCI previously suggested that the Commission could reduce from 30 to 14 days the period for addressing applications -- as distinct from eliminating the process altogether -- MCI has reconsidered its position and now believes that the current 30-day public comment period has served the interests of both the public and the Commission and should not be shortened. In those rare instances where an application needs to be challenged, a 14 day filing period would not provide adequate time for the preparation and filing of a pleading. In any event, there is nothing on the record that shows that the application process places a significant burden on dominant carriers in connection with their conveyance of cable capacity and, certainly, if meritless petitions were filed, the Commission should react and respond promptly and authoritatively.

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[13] MCI at 5.

[14] This information includes (1) name of party to whom the capacity is to be conveyed; (2) name of the facility in which capacity is to be conveyed; (3) amount of capacity to be conveyed; and (4) price of the capacity to be conveyed.

II. CONCLUSION

For the reasons stated above and in MCI's initial Comments, Comments the Commission should adopt its NPRM proposals consistent with these views.

Respectfully Submitted,

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Dated: September 7, 1995

CERTIFICATE OF SERVICE

I, Hilary Soldati, do hereby certify that the foregoing "REPLY COMMENTS" was served this 7th day of September, 1995, by first-class mail, postage prepaid, on the parties listed below:

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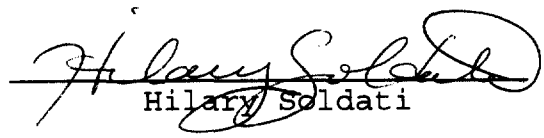

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